

EXHIBIT AA

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE WIMBLEDON FUND, SPC (CLASS)	
TT),)	
)	
PLAINTIFFS,)	
)	
VS.)	CASE NO.
)	2:15-CV-6633-CAS-ASJWX
)	
GRAYBOX LLC; INTEGRATED)	
ADMINISTRATION; EUGENE SCHER, AS)	
TRUSTEE OF BERGSTEIN TRUST; AND)	
CASCADE TECHNOLOGIES CORP.,)	
)	
DEFENDANTS.)	
_____)	

VIDEOTAPED DEPOSITION OF FRYMI BIEDAK

TAKEN ON

MONDAY, MARCH 25, 2019

Sandra Mitchell
C.S.R. 12553

12:05:58 1 MR. WALKER: Sir?

2 MR. WIECHERT: An hour or you want to do less?

3 MR. WALKER: I was going to go through one more

4 exhibit. She said she'd go through one more.

12:06:02 5 MR. WIECHERT: Oh, I'm sorry. Okay.

6 BY MR. WALKER:

7 Q Ma'am, let me hand you what's been marked as

8 Exhibit 11.

9 (Exhibit 11 was marked for

12:06:14 10 identification by the Court Reporter

11 and is attached hereto.)

12 BY MR. WALKER:

13 Q Does Exhibit 11 appear to be checks drawn on

14 the Swartz IP Services Group, Inc., account?

12:06:33 15 A Yes.

16 Q Okay. Now, the first check is dated

17 December 9, 2011; correct? On the first page of

18 Exhibit 11?

19 A Yes.

12:06:44 20 Q Okay. And that check was payable to cash?

21 A Yes.

22 Q For \$6,000?

23 A Yes.

24 Q And I take it that was a counter check?

12:06:58 25 A When you say co- -- what other checks are

12:07:00 1 there?

2 Q Well, in other words, the check that we see for
3 \$6,000 payable to cash dated December 9, 2011, was not
4 on a check that had the Swartz IP name or address

12:07:16 5 printed on it?

6 A It must have been maybe a temporary check.

7 Q Okay. So was this one of the first checks that
8 was cashed on the Swartz IP account?

9 A It's didn't have access to the Swartz. I
12:07:26 10 didn't keep a spreadsheet on the Swartz IP account, as I
11 said before.

12 Q Okay. Who had access to the Swartz IP bank
13 account at this time?

14 A I -- not me.

12:07:39 15 Q Okay. Was there a reason that you were not
16 provided access to the Swartz IP bank account?

17 A I -- I don't know why, but -- and I never
18 asked.

19 Q And is that signature one that you recognize of
12:07:54 20 David Bergstein?

21 A Yes.

22 Q Okay.

23 A But that's his signature.

24 Q That's his actual signature?

12:08:00 25 A Yes.

12:08:01 1 Q Okay. Going to the next page, is that also --
2 now we see it's a printed check, 1026, dated July 2,
3 2012; correct?

4 A July 2. Yes.

12:08:14 5 Q And now we see it's a printed check for Swartz
6 IP Services Group, Inc., at the 2425 Colorado Avenue,
7 Suite B205, address in Santa Monica, California;
8 correct?

9 A Yes.

12:08:28 10 Q And who is Che Sheng?

11 A I don't know.

12 Q Have -- had you ever heard of that name in the
13 context of Mr. Bergstein or Mr. Jam?

14 A No.

12:08:40 15 Q And you recognize that as being Mr. Bergstein's
16 signature?

17 A Yes. Not the stamp.

18 Q Going to the next page, there is check 1027
19 dated August 22, 2012, in the amount of \$4,960 to Robert
12:09:00 20 Pressler. Do you see that?

21 A Yes.

22 Q And this is also on the same Swartz IP Services
23 Grouping, Inc., account; correct?

24 A With Wells Fargo Bank.

12:09:10 25 Q Okay. And you recognize that as David

12:09:12 1 Bergstein's actual signature?

2 A Yes.

3 Q Who was Robert Pressler?

4 A I have no idea.

12:09:19 5 Q That's not a name that you had run into in any
6 of your dealings with Mr. Bergstein or Mr. Jam?

7 A No.

8 Q Looking at the endorsement, it says RPP
9 Enterprises. Does that refresh your recollection as to
12:09:33 10 who Mr. Pressler might have been?

11 A No.

12 Q Going to the next check, it's a check dated
13 July 23, 2012, in the amount of \$12,000 made payable to
14 Graybox LLC; correct?

12:09:49 15 A That's correct, yes.

16 Q And you recognize that as being Mr. Bergstein's
17 actual signature?

18 A Yes.

19 Q Do you know what the purpose of this particular
12:10:00 20 payment to Graybox LLC was that Mr. Bergstein made out
21 of this Swartz IP account?

22 A I don't know.

23 Q Going to the next check, we see a check on
24 December 18, 2013, in the amount of \$10,000 drawn on the
12:10:22 25 Swartz IP Services Group account and payable to

16:14:29 1 identification by the Court Reporter
2 and is attached hereto.)

3 BY MR. WEICHERT:

4 Q Were you aware of whether or not Mr. Bergstein
16:14:37 5 had a debit card that was associated with the Deutsche
6 Bank Swartz IP account?

7 A I have no idea.

8 Q And looking at Exhibit 30, does that refresh
9 your recollection in any way?

16:14:57 10 A Is this Exhibit 30?

11 Q Yes.

12 A I have never seen a debit card. I've never
13 seen -- I've never seen anything connected with this
14 account until such time as discovery was done, other
16:15:18 15 than those you -- I -- I must have seen those few
16 e-mails.

17 Q This is Exhibit 31.

18 (Exhibit 31 was marked for
19 identification by the Court Reporter
16:15:35 20 and is attached hereto.)

21 BY MR. WEICHERT:

22 Q And this, like the Deutsche Bank packages, has
23 a few documents. So if you could just take a look at
24 it, that will be great.

16:15:49 25 A This was open in bank accounts with Wells

16:15:51 1 Fargo.

2 Q All right. So the first page of Exhibit 31 is
3 an e-mail from you to Justin Milligan.

4 Justin Milligan is a representative of Wells

16:16:04 5 Fargo Bank; correct?

6 A Yes. Correct.

7 Q David Bergstein is copied on the e-mail; is
8 that right?

9 A Uh-huh. Yes. Correct.

16:16:12 10 Q The purpose of the e-mail was to send documents
11 to Just- -- Mr. Milligan at Wells Fargo Bank to open the
12 account; correct?

13 A Yes.

14 Q Kia Jam is not on this -- copied on this --

16:16:24 15 A No.

16 Q -- e-mail; correct?

17 A He's not. No.

18 Q No is he's not --

19 A He's not copied. No. He's not copied. No.

16:16:33 20 Q All right. Do you recall who asked you to open
21 up an account or assist in opening up an account at
22 Wells Fargo on behalf of Swartz IP?

23 A I -- I don't remember.

24 Q We saw a series of checks that were identified

16:16:59 25 by the plaintiff on the Wells Fargo account, and they

16:17:02 1 were all signed by Mr. Bergstein; correct?

2 A Yes. Yes.

3 Q So looking -- having looked at those checks and
4 looking at Exhibit 31, does that refresh your

16:17:12 5 recollection that it was Mr. Bergstein that asked you to
6 assist him in the opening up of the Wells Fargo account?

7 A The way I see it, he probably -- he may have
8 told me. And this is just the way opening account was,
9 "Please send this and this person documents related to

16:17:33 10 Swartz IP."

11 Q Well, would you have opened up an account at a
12 bank on behalf of Swartz IP without Mr. Bergstein's
13 permission?

14 A I didn't open the account. I didn't open the
16:17:46 15 account. I just sent --

16 Q Would you have assist- --

17 A -- documents. I just sent documents. I sent
18 documents to -- what's his name? -- Justin Milligan.

19 Q Yes.

16:17:51 20 You assisted in opening the account; correct?

21 A Upon his instructions, yes.

22 Q And would you have assisted in opening up a
23 bank account on behalf of the Swartz IP without the
24 permission of Mr. Bergstein?

16:18:06 25 A No. I was not a signer in any of his accounts

16:18:10 1 ever.

2 Q As far as you know, Mr. Bergstein was the sole
3 signer on the Wells Fargo account; correct?

4 A I think so, yes.

16:18:21 5 Q And, in fact, as far as you know, Mr. Bergstein
6 was the sole signer on any account related to Swartz IP?

7 A Wells Fargo, I'm fairly sure. Again, Deutsche
8 Bank, I've never seen anything, so I really don't know.

9 Q Are you aware of whether or not Mr. Bergstein
16:18:56 10 ever purchased any property in Malibu?

11 A I'm sorry?

12 Q Did Mr. Bergstein or his trust or anyone
13 related to Mr. Bergstein ever purchase any property in
14 Malibu?

16:19:15 15 A If he did, then I was not involved.

16 Q This will be Exhibit 32.

17 (Exhibit 32 was marked for
18 identification by the Court Reporter
19 and is attached hereto.)

16:19:45 20 BY MR. WEICHERT:

21 Q It says -- starting with the e-mail at the
22 bottom, March 13, 2012, 11:33?

23 A Yes.

24 Q The first e-mail is from -- I'm sorry, let's
16:20:19 25 deal the 11:19 a.m. e-mail. "There is a